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UNCLAS SECTION 01 OF 05 ABIDJAN 001018

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State pass to USTR Connie Hamilton  
State pass to NSC  
State pass to EEB Janet Potash  
Commerce pass to Maria Rivero

E.O. 12958: N/A

TAGS: ECON ETRD XA IV

SUBJECT: COTE D'IVOIRE 2007 AGOA ELIGIBILITY RECOMMENDATION

REF: SECSTATE 132189

¶1. Below is the text of Post's Eligibility Recommendation Input as emailed to EEB Janet Potash and USTR Connie Hamilton October 2nd:

Country: COTE D'IVOIRE

Current AGOA Status: Ineligible, Benefits Withdrawn January 1, 2005

Country Background Summary: Cote d'Ivoire's economy has struggled since the eruption of political crisis in 1999 followed by a failed coup attempt in September 2002 that left the country divided between government and rebel officers until very recently, although the economic conditions have stabilized somewhat in the past two years. Despite the economic downturn, the Ivorian economy continues to be the driving force behind the region's West African Economic and Monetary Union (WAEMU), and it still comprises up to 40 percent of WAEMU's GDP. However, the ongoing Ivorian political crisis has undercut investor confidence and hurt regional trade and overall output. According to a mid-2007 IMF/World Bank Article IV consultation, real GDP in 2005 grew by 1.2% and .9% rate in 2006, propelled by strong oil and gas receipts. However, the World Bank and IMF estimate that GNP per capita has fallen by 15 percent since the beginning of the political crisis in 1999, due largely to the 7 percent fall in GDP from 2000-2003 and the scant 4 percent growth from 2004-2006. The March 4 signing of the Ouagadougou Political Accord has led to some improvements in the political situation, most notably the installation of a new coalition government and the beginning of an identification program designed to address the disenfranchisement of potentially millions of Ivorians. In June of 2007, the Ivorian Government and the IMF, World Bank and African Development Bank reached agreement on clearing Cote d'Ivoire's over \$400 million in arrears, paving the way for nearly \$240 million in assistance, (\$120 million in IMF budget support and \$120 million in World Bank post-conflict aid). According to the latest IMF and Ivorian government figures, foreign investment continues to be stagnant, standing at \$164 million in both 2005 and 2006, and is heavily concentrated in the oil and gas sector.. According to the Article IV report, inflation remains under control, falling from 3.9% to 2.5% in 2006. U.S. exports to the country rose to US\$147 million in 2006, up from \$124 million in 2005, according to U.S. Census figures, while U.S. imports dropped sharply to \$755 million in 2006 from \$1.198 billion 2005 (largely due to a sharp fall in Ivorian oil and gas exports to the U.S.). Overall, Cote d'Ivoire's current account balance remains strongly positive, with US\$8.5 billion in exports and imports of \$5.2 billion in 2006, according to figures from the 2007 Article IV. Cote d'Ivoire retains its free-market economy. However, companies doing business continue to face a myriad of challenges. In February 2005, the Department of

State sent a letter to the Government of Cote d'Ivoire (GOCI) informing it of Cote d'Ivoire's loss of AGOA benefits; this status has not changed.

#### Comments on Eligibility Requirements

##### II. Market-based Economy

###### IA. Major Strengths Identified

Despite the political crisis, Cote d'Ivoire has retained its free-market economy. The financial and capital markets remain open and continue to attract domestic, regional and international capital. Exports of agricultural and other commodities remain vibrant, and foreign firms continue to do business in those sectors.

The government actively promotes Cote d'Ivoire and is eager to receive foreign investment. However, companies doing business in Cote d'Ivoire continue to face difficulties such as glacially-slow reimbursement of VAT and other taxes to tax-exempt businesses, and shake-downs by security forces for bribes at roadside checkpoints. Cote d'Ivoire has removed most non-tariff barriers, including its protective tax of US\$2 per kg on poultry imports, eliminated during the 2006 holiday period as a benefit to consumers. The ban on sugar imports has been lifted, although import tariffs have been set at prohibitively high rates. In January, 2000 Cote d'Ivoire adopted a lower Common External Tariff (CET) on imports along with the other seven WAEMU member countries. For non-members, the CET calls for a 5% tariff on raw materials and inputs for local manufacture, 10% on semi-finished goods, and 20% for finished products.

The GOCI announced plans to liberalize the telecommunications sector in February 2004. This includes a telecommunications code encompassing new regulations for the sector, e.g. third party

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access, universal service, and consolidation of existing regulatory bodies. Draft legislation was sent to the National Assembly in December 2004, but to date, no action on this has been taken. (note: the National Assembly's constitutionally defined term expired in 2005. It has not met since September 2006, Due to the political situation, no elections have been held since 2001)

Cocoa sector reorganization is a top priority of international lending institutions, which have made future engagement here contingent on progress in this arena. Cote d'Ivoire has pledged to reduce "parafiscal" export taxes on cocoa as part of its negotiations with the IMF and World Bank on post-conflict assistance, and has also agreed to measures designed to substantially boost transparency related to the use of those revenues.

-Cote d'Ivoire has several comprehensive investment codes, which provide non-discriminatory access to foreign investors.

-Numerous private sector business associations are active, including the American Chamber of Commerce (AMCHAM), the larger French Chamber of Commerce, and the Ivorian Chamber of Commerce.

-A major benchmark contained in the 2005 notification of ineligibility was: "improve the business environment by promoting transparency in rules and regulations, offering nondiscriminatory treatment of foreign firms and investments, and resolving outstanding investment disputes with U.S. firms." The Ivorian government has made notable strides, settling its long-standing investment dispute with ExxonMobil and with Cora de Comstar (Western Wireless), both in 2006. ExxonMobil had been subject to 24 years of repeated court challenges by Centaures Routiers, a French-owned Ivorian company. The American company paid a \$20 million dollar settlement package to end the case. In late 2006, the Government of Cote d'Ivoire and Western Wireless came to an agreement in which the GOCI paid \$6 million to the company in exchange for a mutual end to litigation and a pledge to avoid future litigation over their long-running dispute.

###### IB. Major Issues/Problems Identified

Another USG benchmark cited in the notice of ineligibility calls for GOCI efforts to "institute transparent and consistent rules in the cocoa sector and promote fair and non-discriminatory application of taxes, fees, and export regulations in the cocoa sector." Cocoa exports generate more than US\$2 billion, or nearly 20% of total export revenue, according to the 2007 World Bank/IMF Article IV study. While various parastatal cocoa authorities have grown in size and burdened cocoa farmers (the vast majority of whom are poor smallholders) under President Gbagbo, the government and the quasi-governmental cocoa regulatory bodies set up during the 1998 deregulation have agreed to reduce "parafiscal" levies on exports and boost overall transparency in the management of the industry. Negotiations with the IMF and World Bank have been instrumental in making these strides.

Since 2006, exports of oil and gas have surpassed export receipts from cocoa and coffee, long the country's top export earners. International lending institutions and bilateral donors have serious concerns related to the lack of transparency in these accounts, concerns which have led to the three audits of the sector as part of ongoing supervision of Cote d'Ivoire's fiscal controls associated with the reengagement of the IFIs and the provision of post-conflict assistance packages. The U.S., along with other large bilateral donors and the IFIs, strongly support Cote d'Ivoire's implementation of its 2006 pledge to join the Extractive Industries Transparency Initiative, as well as adopt other fiscal controls and transparency measures to ensure proper accounting for these important and growing revenues.

-Multinational firms are subject to surprise audits by tax authorities, to a degree they believe firms with close political ties and affiliations are not.

-Many firms continue to see corruption as an obstacle to doing business in Cote d'Ivoire, with the greatest impact on procurement, judicial proceedings, customs and tax bureaucracies and general red tape.

-Large-scale investments must be approved at the ministerial level. This must be done through a laborious process of document preparation and the gathering of stamps of approval from multiple departments within the ministries concerned.

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## II. Political Reforms/Rule of Law/Anti-Corruption

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### IA. Major Strengths Identified

The first benchmark in the notification to the GOCI of ineligibility required the Ivorian government to "fully implement the Linas-Marcoussis and Accra III agreements." In addition, it required the government to "maintain a cease-fire without exception," and "improve the performance of security forces on protecting human rights," and that it "hold free and fair elections as scheduled in October 2005." Elections have not yet been held, but the belligerent parties in Cote d'Ivoire have signed the landmark Ouagadougou Political Accord and entered into a coalition government. The former head of the rebel group that carried out a coup attempt in 2002 is now the Prime Minister. In addition, the country is moving forward on the critical mass identification program aimed at enfranchising the large numbers of persons, estimated by different groups to be between 300,000 and 3 million, who lack identity documents. The Ouaga Accord calls for elections by early 2008, but most observers do not see this as realistic. The President of the Independent Electoral Commission announced in September 2007 that elections could be held in or after October 2008.

During the summer of 2005, the Customs authorities launched campaigns at the Port of Abidjan to curb non-payment of customs duties and to prevent smuggling of counterfeit or illegal products. The customs authorities in 2006 installed a small mobile scanner at the port to supposedly scan 25% of all containers, and have said

they will meet new U.S. requirements for 100% scanning for U.S.-bound containers. Despite this anti-smuggling campaign, the government admits that there is less than 50% compliance with customs duties.

In September 2005, the government's new VAT tax regulations and new unified commercial invoice went into effect. The new regulations and new invoice were adopted as measures to prevent non-payment of VAT taxes. Compliance with VAT regulations is not 100%, but authorities claim they are making headway. After initial protests over the new regulations, the government in 2006 began a public campaign to encourage compliance by small businesses, during which, in 2007, authorities made the high-profile arrest and expulsion of a prominent foreign-born Ivorian merchant who complained the regulations discriminated against businesses owned by foreign-born Ivorians (his expulsion from Cote d'Ivoire may be a violation of the Constitution).

#### **IA. Major Issues/Problems Identified**

Full implementation of the Linas-Marcoussis and Accra III agreements required the disarmament, demobilization and reintegration (DDR) of former combatants (including militias) and the creation of integrated, national armed forces. The Ouagadougou Political Accord reinforced this DDR mandate. To date, however, little to no disarmament, reintegration or reinsertion has taken place. Militias remain armed and dangerous, particularly in the volatile western region of the country.

The third benchmark contained in the notification of ineligibility called on the GOCI to "continue to reform and improve the judicial system" by establishing anti-corruption measures and training judges. Although the 2000 constitution requires a number of judicial reforms, these reforms remain blocked, due in part to the inability to pass such legislation through the National Assembly.

Members of security forces operated with relative impunity. They frequently resorted to lethal force to combat widespread violent crime and sometimes beat detainees and prisoners. Pro-government militias and "youth groups" are equally able to attack the offices of civil society without restraint. The Government generally failed to bring to justice most perpetrators of such abuses.

Corruption continues to be a major problem throughout the country, affecting both firms and private citizens. The greatest impact on investment occurs in the areas of procurement, judicial proceedings, customs and tax bureaucracies and general red tape. Cote d'Ivoire ranks 150 on Transparency International's 2007 list, behind Russia, Angola, Belarus and Nigeria.

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### **III. Poverty Reduction**

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#### **IA. Major Strengths Identified**

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Close to a third of the 2006 and 2007 budget was dedicated to spending on agriculture, education, infrastructure, health, development, the fight against HIV/AIDS and scientific research. However, many ministries are only beginning to redeploy to the northern half of the country, leaving much of the population unserved, despite the formal reunification of the country.

-The GOCI continues to act as an effective partner with the USG's PEPFAR initiative.

#### **IB. Major Issues/Problems Identified**

In past years the United Nations had reported that nearly a quarter of a million children out of a school-aged population estimated at 533,000 were being deprived of school. For the 2004 - 2005 school year, the numbers of school-aged children living in the northern, Forces Nouvelles-held areas was estimated by the UN at 550,000, and 379,232 children were enrolled, (up significantly from 2003).

However, large majorities of government teaching staff assigned to schools in the North did not teach classes, and teachers are only now slowly beginning to return to their schools. In February 2006, some 90,000 out of 122,000 eligible test takers in the north sat for national advancement examinations, as did a similar number in early 2007. In both instances, results were somewhat lower in the North than those in government-controlled regions (these exams are essential for children to advance in school and to university).

Additionally, significant numbers of children are denied schooling in the remote cocoa farming region in the central region and in the West. Cocoa-growing families often need their children's labor on the family farms, or in the case of communities of "foreigners" (transplanted Burkinabe, Malian, as well as their kinsmen from the northern part of Cote d'Ivoire), lack access to government-provided schools in their villages. The USG, in collaboration with NGOs, other donors and the government of Cote d'Ivoire, is implementing programs to encourage families of school-aged children in cocoa-growing regions to send their children to school and to avoid the worst forms of child labor.

The continued deterioration of the overall humanitarian situation in northern Cote d'Ivoire, particularly in the area of water sanitation and access to health care, raises serious concern. Most agencies agree that renewed open conflict would lead to a critical situation affecting an already vulnerable population.

The World Bank estimates that the poverty rate has increased from 38 percent before the crisis to 44 percent.

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#### IV. Workers' Rights/Child Labor/Human Rights

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##### A. Major Strengths Identified

The Labor Code grants all citizens, except members of the police and military services, the right to organize and bargain collectively. Formal sector unions play an active role in negotiating with employers and in the promotion of worker rights. Strikes are held frequently, by unions representing workers in both public and private fields.

Under the Pretoria III Accord, the opposition now has a major role in the management of Radio Television Ivoire (RTI), and all political parties now have reasonably fair access to the media. However, in late 2006, President Gbagbo unilaterally imposed his own management on RTI as well as the government-owned newspaper *Fraternite Matin*.

The Ivorian government adopted by ministerial decree a list of prohibited "worst forms" of child labor for children under 15 in agriculture, mining, trade, transportation, handicrafts, and other sectors. This list closely mirrors the ILO definitions of "worst forms" and specifically enumerates the types of work prohibited in each sector.

The government of Cote d'Ivoire is making a concerted effort to address the concerns surrounding child labor in the cocoa sector in order to be compliant with ILO conventions 182 and 138 which the National Assembly ratified in February 2003, as well as the guidelines of the Harkin-Engle Protocol, which calls for 50 percent of the country's cocoa-growing region to be certified free of the worst forms of child labor by July 1, 2008. To accomplish this goal, the Prime Minister created a task force that included public and private sector cocoa interests in 2005 to address the problem of child labor by implementing a credible certification program in the

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cocoa sector. The task force's efforts were taken up and expanded in 2006 by a team led by the Minister of Labor, in collaboration with the Ministry of Agriculture. This organization, working in concert with international industry, is making strides towards meeting its child labor goals. The GOCI adopted a National Plan on Child Labor on September 20, 2007 with the objective of reducing child labor by 50 percent in 3 years.

#### IB. Major Issues/Problems Identified

-Since the majority of the workforce is engaged in either the informal sector or agricultural sector, most workers have few, if any rights or effective leverage.

-Although Ivorian law prohibits forced and bonded child labor, enforcement institutions remain weak and under-funded.

-In late 2006, pro-government groups attempted to disrupt identification courts that had been set up to register and enfranchise those without papers. While opposition youth groups responded to these attacks by in turn attacking the attackers, no leaders of the pro-government groups were ever prosecuted.

-In the volatile western region near the Liberian border, pro-government militias and armed groups associated with the rebel "Forces Nouvelles" have until recently clashed regularly, undermining security and contributing to lawlessness. Militias terrorize local populations, undermining security. Only recently have authorities from the coalition government made modest strides in bringing security to the region, and both groups remain heavily armed and able to disrupt the nation's peace process.

-Harassment and intimidation of the opposition press and civil society continue, although the environment has improved slightly. Two prominent human rights groups were attacked and their offices ransacked with impunity by youth groups aligned with the President's faction, as was an opposition newspaper. None of the groups' leaders were prosecuted for these acts.

-Discrimination and violence against women continues and usually goes unpunished.

-Child abuse and exploitation, including sexual exploitation, occur often. Trafficking of women and children for the purposes of sexual exploitation remains a problem. While the government and NGOs target the practice and work collaboratively to investigate and target networks, punishments remain insufficient and the infrastructure to help protect and repatriate victims remains weak.

-Female genital mutilation (FGM) is widely practiced on girls and young women. NGOs are active in sensitizing largely rural populations as to the health and psychological risks associated with the practice.

-Although improved in comparison to past years, the government's human rights record remains poor.

-Although improved in comparison to past years, the rebel "Forces Nouvelles" human rights record remains poor.

-Prison and detention center conditions were deplorable.

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#### IV. International Terrorism/U.S. National Security

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#### IA. Major Strengths Identified

-The GOCI has cooperated with the United States since September 11 to combat terrorism. The GOCI has beefed up its civil aviation authority, and implemented the International Maritime Organization's new standards for port security. It has also pledged support on implementation of relevant Security Council resolutions on terrorism and terrorist financing. For example, GOCI authorities state that when they receive notification of a terrorist listing, they conduct investigations and, if terrorists are found, they act to seize all assets associated with terrorists or terrorist groups.

#### IB. Major Issues/Problems Identified

-None

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